

DEPARTMENT OF FOOD AND AGRICULTURE

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing is scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department of Food and Agriculture (Department) no later than 15 days prior to the close of the written comment period.

Subject Matter of

Proposed Regulations: Interstate Movement of Poultry

Sections Affected:

- Repeal Sections 800, 800.1, 801 and 802;
- Adopt Article 13 and Sections 821, 821.1, 821.2, 821.3, 821.4, and 821.5.

Specific Purpose of Each Adoption, Amendment, or Repeal

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this State. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

In compliance with the above sections of law, the Department has in place regulations to specify the requirements for the movement of poultry according to certain disease conditions. The Department proposes to repeal these requirements in sections 800 (Asiatic Newcastle Disease), 800.1 (Asiatic Newcastle Disease Quarantine Area), 801 (Duck Virus Enteritis), and 802 (Avian Influenza Interstate Movement), of Title 3 of the California Code of Regulations.

The Department is adopting new Article 13 (Interstate Movement of Poultry) and Sections 821 (Definitions), 821.1 (General Requirements), 821.2 (Certificate of Veterinary Inspection), 821.3 (Interstate Livestock Entry Permit), 821.4 (Requirements for Entry of Poultry), and 821.5 (Violations), of Title 3 of the California Code of Regulations. This proposal also incorporates by reference the National Poultry Improvement Plan, the Auxiliary Provisions and accompanied by VS Form 9-3 (Report of Sales of Hatching Eggs, Chicks and Poults) in accordance with 9 CFR Part 145 et seq., Part 146 et seq., and Part 147 et seq., (2007).

The intent of this proposal is to establish interstate movement requirements for poultry imported into California to help prevent and control the spread of poultry diseases within this State and the United States pursuant to Food and Agricultural Code section 9561.

Factual Basis

The Department is responsible for promoting and protecting the agricultural industry of California. Further, the Department seeks to enhance, protect and perpetuate the ability of the agricultural industry to produce food and fiber in a way that benefits the general welfare and economy of California, and maintain the economic well-being of agriculturally dependent rural communities in California pursuant to Food and Agricultural Code sections 401 and 401.5.

The Department's Animal Health Branch is the State's organized, professional veterinary medical unit that protects livestock populations, consumers, and California's economy from catastrophic animal diseases and other health or agricultural problems. The Branch addresses diseases and other problems that cannot be successfully controlled on an individual animal or herd basis, but require statewide coordinated resources.

Pursuant to Food and Agricultural Code sections 9561, 9562, and 9570, the Department is proposing to adopt interstate movement regulations for persons importing poultry into the State. The requirements focus on specific diseases of poultry that are significant human and animal health, and economic threats if introduced and spread within the State.

This proposal addresses two poultry bacterial diseases, *Salmonella pullorum* (Pullorum disease) and *Salmonella gallinarum* (Fowl Typhoid), which can produce heavy losses in chickens, turkeys and other poultry. Losses are greatest in very young birds but can be seen at almost any age. Survivors of these infections remain carriers for life and can become sources of infection for other birds. As breeders, they produce hatching eggs, which can contain these bacteria. As a result, chicks are hatched with the infection and frequently die.

Pullorum-Typhoid diseases can be controlled and eradicated by blood-testing potential breeding animals, culling infected birds and thus breaking the disease cycle. Because the two diseases are similar, they react to the same diagnostic tests and are considered and tested as one disease.

Fowl typhoid is common in Mexico, Central and South America, Africa, and the Indian subcontinent. In the US, Canada, Japan, Australia and most countries in Western Europe, fowl typhoid has been eradicated from commercial poultry, although the disease may still be present in backyard flocks. No outbreak has been reported in the US since 1987.

Pullorum disease is a world-wide disease of chickens gaining, incidence in South American and other countries throughout Africa and Asia in recent years. The US and Canada are currently free of the disease; however isolation of *Salmonella pullorum* occurred in 2001 and 2002 in backyard poultry.

To continue to reduce and eventually eliminate these and several other poultry diseases, the Department is proposing regulations for the importation of poultry into California. These proposed regulations are in accordance with the United States Department of

Agriculture's (USDA) National Poultry Improvement Plan and comparable to the requirements for poultry moving into other US states.

Outlined below is the factual basis and rationale for each repeal and adoption of specified sections of Title 3 of the California Code of Regulations.

Repeal Sections 800 (Asiatic Newcastle Disease), 800.1 (Asiatic Newcastle Disease Quarantine Area), 801 (Duck Virus Enteritis), and 802 (Avian Influenza - Interstate Movement).

The Department proposes to repeal sections 800, 800.1, 801, and 802 because they are no longer necessary.

Adopt new Article 13. Interstate Movement of Poultry.

The Department is proposing the requirements for poultry imported into California from other US states under new Article 13. This article addresses the entry requirements for Pullorum-Typhoid Diseases and other possible conditions of poultry pursuant to Food and Agricultural Code Section 9570. Additional sections address Certificates of Veterinary Inspection and Interstate Livestock Entry Permits, necessary to monitor shipments of poultry, assure compliance, and locate exposed or infected animals in an effort to decrease the probability that infected birds will be imported into California. These requirements reflect current federal importation requirements and strengthened importation requirements for poultry originating from states determined to be a threat for having disease.

Adopt Sections 821, 821.1, 821.2, 821.3, 821.4 and 821.5 under new Article 13. Interstate Movement of Poultry.

Section 821. Definitions.

Subsections (a)(1) through (5) specify the terms and definitions as used in this article, which are needed for clarity purposes. The terms defined in this section comply with poultry industry standards, are specific to poultry health, and are consistent with both Departmental regulations and federal regulations for the eradication and control of poultry diseases.

Section 821.1. General Requirements.

Subsection (a) references Food and Agricultural Code section 9101 and section 797 of Title 3 of the California Code of Regulations, which requires reporting to the Department certain conditions of avian species and poultry as specified. The List of Reportable Conditions for Animals and Animal Products is available to the public on the Department's Internet web site and is available in hard copy upon request.

Subsection (b) informs the public that even though animals meet the importation requirements as specified in this article, a disease or condition in another state or country

might be reflected in other entry requirements as specified in other applicable statutes or regulations, state or federal. Additionally, regulations in this article may be in addition to federal rules for the importation of poultry, which may be necessary if California regulations are more restrictive than federal regulations as determined by the State Veterinarian to prevent diseases from entering California and potentially endangering human health and safety and the State's agricultural industry.

Subsection (c) requires that persons bringing animals into California have available and produce transportation records, if requested. A "load" is considered a part of a "shipment" and a shipment may be made up of only one load or several loads. This section is needed as the documents show that the animals have met the requirements for bringing animals into the State. Also, Certificates of Veterinary Inspection or other official documentation must accompany each shipment of animals so that Department personnel or other officials (such as, law enforcement, or representatives from the USDA), can inspect documents and/or animals moving within California to ensure compliance with state or federal regulations designed to prevent disease exposure or the spread of disease.

Section 821.2. Certificate of Veterinary Inspection.

Subsection (a) defines what a Certificate of Veterinary Inspection is and how it is used. Certificates of Veterinary Inspection for livestock are obtained from state licensed, USDA accredited veterinarians after livestock have undergone a physical examination to acknowledge the health of the animal. The accredited veterinarian fills out the certificate, a copy accompanies the animal, a copy is mailed to the state of destination, and a copy is mailed to the State Veterinarian's office in the state of origin. This is the current federal regulatory procedures for all USDA accredited veterinarians authorized to issue Certificates of Veterinary Inspection.

This subsection also provides for the use of electronic Certificates of Veterinary Inspection, also made available only to state licensed, USDA accredited veterinarians. Instead of the current paper method, accredited veterinarians choosing to subscribe to an electronic Certificate of Veterinary vendor fills out the certificate using a web-based system. Currently, there are only a limited number of recognized vendors providing this electronic service and new companies are in the process of being approved. The Department is not specifying the names of the vendors approved for use in this State as this service can only be used by accredited veterinarians, and not the general public.

Subsections (b)(1) through (8) lists the minimum requirements for the Certificate of Veterinary Inspection. This certificate is the primary document necessary to describe and identify the animals in the shipment and their associated test results if required. However, the Department is not including the actual certificate in this regulation, nor providing a form or document number as Certificates of Veterinary Inspection, or similar animal health certificates, vary throughout the US. California has no control over the arrangement or the exact content of this document because it is a document designed and utilized by each state of the US. Each states' Certificate of Veterinary Inspection is similar containing most of the same basic information, but there is no universal format for this document for the country.

Subsections (c) and (d) specifies that a copy of the Certificate of Veterinary Inspection is to be mailed to the Department within 15 days and requires the veterinarian examining the animals and issuing the certificate to indicate that the animals meet California entry requirements. This is needed to reinforce the responsibility of the accredited veterinarian examining the animals in the shipment to ensure they comply with California requirements, and to notify the Department that the animals are entering the State by submitting the Certificate of Veterinary Inspection. The 15 day time period for mailing the Certificate of Veterinary Inspection to the Department is necessary to ensure all state entry requirements have been met, to provide livestock importation statistics to the Department, and a means of tracing animals and contacting owners of animals should a disease outbreak occur. This subsection also accounts for those Certificates of Veterinary Inspection obtained electronically through an approved vendor or those capable of other electronic transmissions.

Subsection (e) provides for the veterinarian certifying the animals that all required documentation and a separate recording of the official individual identification of each animal may be attached instead of listing it directly on the Certificate of Veterinary Inspection. This requirement is needed to allow flexibility when completing the Certificate of Veterinary Inspection for animals entering California. There is no need to transfer potentially voluminous information onto the certificate when they may attach all official documentation required under this article.

Subsection (f) provides that the Department may require a Certificate of Veterinary Inspection for other diseases of animals. This is necessary as a potentially harmful disease outbreak could occur at any time in another state that could cause harm to the citizens and the agricultural industry of California. Additionally, even though persons comply with this proposal, it is the responsibility of the person in possession of the livestock to ensure all other statutes or regulations relative to other identified diseases have been followed before entering California, or moving livestock within the State.

Subsection (g) states that the animals may be transported directly to the destination stated on the Certificate of Veterinary Inspection. This requirement is needed so that state or federal officials can locate arriving animals should an examination be necessary in the event of a disease outbreak in this State or in the state that the animals departed from. It is important that the public be aware that animals cannot be diverted to another location for the health of their animals and the health of any other animals that they may come into contact with.

Subsection (h) explains that a Certificate of Veterinary Inspection is valid for 30 days. After the Certificate of Veterinary Inspection expires, the person importing the animals will need to obtain another Certificate of Veterinary Inspection from an accredited veterinarian in the state of origin. This time period is the standard in most states, however some states allow longer periods of time for specific species. For example, the owners of horses can obtain a Certificate of Veterinary Inspection for a six-month period, as that is often the extent of the horse show season. This would necessitate the owner to only obtain one permit for the horse show season as opposed to a new one every 30 days. The Department, however has determined that, because of an increased potential for the introduction of diseases into California, the Certificate of Veterinary Inspection must be

issued within the last 30 days of entry into the State. This will ensure that the animals in the shipment are healthy, as they have been inspected by an accredited veterinarian at least within the last 30 days prior to entering the State.

Section 821.3. Interstate Livestock Entry Permit.

Subsection (a) informs the public that an Interstate Livestock Entry Permit may be necessary if it is required for the importation of animals into California. Some classes of animals may require a permit because of their risk for having disease.

Subsection (b) explains what an Interstate Livestock Entry Permit is and how it is used. The Department uses information provided by the applicant to determine whether or not the animals, if allowed entry into the State, would pose a risk for having or spreading disease. The overall disease risk is determined by evaluating several factors including the type of animal, the state from which it is coming, what the animal will be used for upon arriving in California, vaccination status, and disease status in the originating state and in the United States.

An Interstate Livestock Entry Permit is an internal record that can also be used to locate animals during a disease outbreak. Information provided by the applicant may be used to investigate and determine sources of disease or infection, and to prevent subsequent spread of disease in California or the state from which animals came.

Subsection (c) specifies that the Department's Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the State. Most requests for entry permits are applied for by telephone, however, the Animal Health Branch accepts requests for permits by other electronic means as specified. The Department is not including a copy of the actual permit in its regulations, as it is an internal computerized tracking document used by the Department. All states have their own version of a livestock entry permit; there is not one uniform permit for the United States.

This section also clarifies that an entry permit number, when required, must be obtained prior to the animals arriving into California. It is necessary to include this requirement because importers will bring animals into the State without first notifying the Department as required by this section. Animals may not meet California's entry requirements yet they have already arrived. If the animals were diseased, it would be too late to prevent any possible spread of disease. Therefore, the Department requires persons importing animals to obtain the permit before the animals are transported.

Subsection (d) specifies that a unique permit number, indicating approval of the application, is usually issued immediately over the telephone after information is gathered. A unique number is necessary for the Animal Health Branch's computerized permitting system, which allows for the collecting of data on livestock movements and for the tracking of animals in the event of a disease outbreak.

The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely occurs as the applicant only needs the permit number for entry into the State, normally issued by telephone or other electronic means.

The applicant does not need to provide a copy of the permit itself to state or federal inspectors (when requested), however the number of the permit must be included on the Certificate of Veterinary Inspection.

Subsection (e) requires the applicant for the permit to enter California to establish that all animals in the shipment meet California entry requirements and has a Certificate of Veterinary Inspection when required. When the applicant contacts the Department to obtain the permit number, Departmental staff verifies that the animals are in compliance with California's entry requirements for the type and purpose of animal being imported, and that the importer possesses a Certificate of Veterinary Inspection when required.

Subsection (f) defines the basic information the applicant needs to supply to the Department so that the permit number may be issued.

Subsection (g) requires that each shipment, which may consist of one or more loads, has a separate entry permit number. A shipment is a group of animals that have the same origin and destination. For some importers of livestock, the number of animals in one shipment may be so great that they may not all fit into one transportation vehicle making it necessary to split the shipment into separate truckloads. To better keep track of animals represented on the required documentation, and to ease the burden on the owner shipping a large number of animals, the Department requires that the entire shipment of animals, which may consist of one or more truckloads, have the same permit number.

Subsection (h) states that the animals must be transported directly to the destination indicated because the Department has to be able to locate arriving animals should an examination be necessary. Therefore, the public should be informed that the animals are not to be diverted to another location, but taken directly to the destination indicated on the permit.

Subsection (i) specifies that the State Veterinarian may deny the request for an entry permit number if there is a serious threat to the public or animal health in this State by importing animals from another state or country. To preserve the public and livestock health, the State Veterinarian is authorized by Food and Agricultural Codes sections 9562 and 9570 to take this action by limiting or restricting the movement of animals into California.

Subsection (j) specifies that Interstate Livestock Entry Permits shall expire 15 days after issuance by the Department. The Department has determined that a 15-day expiration is needed to prevent long periods of time to pass between the issuance of the permit and the arrival of the animals. During this time, animals may become exposed to disease or disease status may change. Additionally, Departmental personnel wait for the arrival of these animals for inspection purposes. Therefore, it is necessary that animals depart and arrive in a timely manner from the date the Department has approved their entry into the State.

Section 821.4. Requirements for Entry of Poultry.

Subsection (a) specifies the requirements for the interstate movement of poultry originating from other US states and entering California. The Certificate of Veterinary Inspection as described in proposed section 821.2 assures the health of livestock, states their origin, and where the animals are going. It is also a means of recording any test results that may be required prior to entry.

Subsection (a)(1) exempts poultry rated or classified by either the state of origin or the National Poultry Improvement Plan as being “free” or “clean” from Pullorum-Typhoid diseases. The Department is incorporating by reference the National Poultry Improvement Plan, the Auxiliary Provisions, and the Veterinary Services (VS) Form 9-3 (Report of Sales of Hatching Eggs, Chicks, and Poults) in accordance with 9 CFR sections 145, 146 and 147 (2007),

The National Poultry Improvement Plan is a cooperative Federal-State-Industry program intended to prevent and control egg-transmitted, hatchery disseminated poultry diseases. The Plan identifies states, flocks, hatcheries, and dealers that meet certain disease control standards specified in the various programs. As a result, customers can buy poultry that has tested free of certain diseases or conditions. Being a member of National Poultry Improvement Plan allows greater ease in moving hatching eggs/live birds intrastate, across state lines, and into other countries. Most countries will not accept hatching eggs/live birds unless they can be shown to be a National Poultry Improvement Plan participant.

Acceptance of the Plan is optional with the states and individual members of the industry within the states. The Plan is administered in each state by an official state agency cooperating with the USDA. The Department oversees California’s participation in the National Poultry Improvement Plan.

Because poultry coming from flocks rated by the National Poultry Improvement Plan or equivalent state programs are least likely to be infected or to spread disease, the Department is proposing to exempt them from the Certificate of Veterinary Inspection requirement prior to entry into the State. Verification of participation in these plans can be made by accompanying the shipment of poultry with a copy of the appropriate forms as stated, which are routinely used for poultry shipments throughout the US.

Subsection (b) informs the public that the Department may pursuant to quarantine impose additional entry requirements for poultry imported into the State because of a condition in another state. These requirements may include obtaining an Interstate Livestock Entry Permit, testing for specific diseases, vaccination, or other treatment as determined by the State Veterinarian.

Section 821.5. Violations.

Subsections (a) and (b) specifies the violations for any person that fails to comply with the requirements of this article relating to the importation of poultry. The Department has

the authority to pursue prosecution for any violation of this proposal pursuant to Food and Agricultural Code section 9574. The Department has determined that controlling existing disease and preventing the introduction of animals that may already be affected with a disease are efforts necessary for the protection of California's poultry industries. Should individuals willfully and knowingly violate regulations established by this proposal, thus putting California's poultry industries at great risk, the Department should be able to seek prosecution. Therefore, the Department believes a section explaining the available remedies for violation of this section is necessary.

Underlying Data

The Department is incorporating by reference the National Poultry Improvement Plan, the Auxiliary Provisions, and VS Form 9-3 (Report of Sales of Hatching Eggs, Chicks, and Poults) in accordance with 9 CFR Parts 145 et seq., 146 et seq., and 147 et seq., (2007).

Business Impact

Business Impact: The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

Paperwork:

1) Obtaining a Certificate of Veterinary Inspection. This proposal requires persons in other US states to obtain a Certificate of Veterinary Inspection prior to the entry of avian or poultry from another state. An exemption is allowed for flocks participating in the National Poultry Improvement Plan. Any costs associated with obtaining a Certificate of Veterinary Inspection from a private veterinarian, or for participation in the National Poultry Improvement Plan cannot be determined by the Department. Poultry production facilities may utilize their own staff veterinarians to oversee the general health of their poultry, whereas other persons or businesses may need to pay for veterinary services. The Department cannot approximate costs for veterinary services as they vary by region, some veterinarians are salaried employees of businesses, and many businesses are located in remote areas which all affect costs.

2) Obtaining an Entry Permit. This proposal may require persons in other US states to obtain an Interstate Livestock Entry Permit prior to the entry of avian or poultry into California. An Interstate Livestock Entry Permit is an internal record used by the Department to help locate animals during a disease outbreak. Information provided by the applicant may also be used to investigate and determine sources of disease or infection, and to prevent subsequent spread of disease in California or the state from which animals came. The Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the State. Most requests for entry permits are applied for by telephone, however, the Animal Health Branch accepts requests for permits by other electronic means as specified. A unique permit number, indicating approval of the application, is usually issued immediately over the

telephone after information is gathered. The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely occurs as the applicant only needs the permit number for entry into the State. The applicant does not need to provide a copy of the permit itself to state or federal inspectors (when requested), however the number of the permit must be included on the Certificate of Veterinary Inspection.

Reporting:

Pursuant to section 797 of Title 3 of the California Code of Regulations, specified persons are required to report certain conditions of avian and poultry to the Department or the United States Department of Agriculture, within timeframes specified on the List of Reportable Conditions for Animals and Animal Products.

Recordkeeping:

There are no specific requirements for recordkeeping in this proposal.

Specific Technologies or Equipment

This regulation does not mandate the use of specific technologies or equipment; however, the livestock industry or veterinary medical practices may require specific technologies or equipment.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department of Food and Agriculture would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.